

R 8-16-1 Definitions

- ❖ Dependent means any person who is living with or dependent upon the income of any employee whether related by blood or not.
- ❖ Employee means any individual, hired for permanent employment, full or part-time, who has worked for at least 12 consecutive weeks performing services for remuneration within this state for any department, division, board, bureau, agency, commission or other unit of state government, or any county board of education in the state.
- ❖ Employee does not include the principal administrative officers of the county board of education.
- ❖ Employer includes any department, division, board, bureau, agency, commission or other unit of state government and any county board of education in the state.
- ❖ Employment benefits means all benefits, other than salary or wages, provided or made available to employees by the Board, and includes group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits and pensions, regardless of whether such benefits are provided by a policy or practice of an employer or by an employee benefit plan as defined in the federal Employee Retirement Income Security Act of 1974.
- ❖ The term "health care" or "health care services" means clinically related preventive, diagnostic, treatment or rehabilitative services whether provided in the home, office, hospital, clinic or any other suitable place, provided or prescribed by any health care provider or providers
- ❖ Health care provider means:
 - Doctors of medicine or osteopathy authorized to practice medicine or surgery by the state of West Virginia.
 - Podiatrists, dentists, clinical psychologists, optometrists and chiropractors (limited to manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice, and performing within the scope of their practice under state law.
 - Nurse practitioners, nurse-midwives and clinical social workers authorized to practice, and performing within the scope of their practice, as defined under state law.
 - Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts.
 - Any health care provider recognized by the employer or the employer's group health plan benefits manager.
- ❖ Parent means a biological, foster or adoptive parent, a stepparent or a legal guardian.
- ❖ Serious health condition means an illness, injury, impairment, or physical or mental condition that involves either:
 - Any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical-care-facility, and any period of incapacity or subsequent treatment in connection with such inpatient care; or
 - Continuing treatment by a health care provider which includes any period of incapacity (i.e., inability to work, attend school or perform other regular daily activities) due to:

- A health condition (including treatment therefore, or recovery there from) lasting more than three consecutive days, and any subsequent treatment or period of incapacity relating to the same condition that also includes (1) treatment two or more times by or under the supervision of a health care provider, or (2) one treatment by a health care provider with a continuing regimen of treatment.
 - Pregnancy or prenatal care. A visit to the health care provider is not necessary for each absence.
 - A chronic serious health condition that continues over an extended period of time, requires periodic visits to a health care provider, and may involve occasional episodes of incapacity (e.g., asthma, diabetes). A visit to a health care provider is not necessary for each absence.
 - A permanent or long-term condition for which treatment may not be effective (e.g., Alzheimer's, a severe stroke, terminal cancer). Only supervision by a health care provider is required, rather than active treatment.
 - Any absences to receive multiple treatments for restorative surgery or for a condition which would likely result in a period of incapacity of more than three days if not treated (e.g., chemotherapy or radiation treatments for cancer).
 - Common ailments such as the common cold, flu, migraine, minor ulcers, routine dental treatment, etc. do not qualify for leave.
 - Restorative dental or plastic surgery, mental illness resulting from stress or allergies and treatment for substance abuse may qualify as serious health conditions if all other FMLA requirements are met.
- ❖ Son or daughter means an individual who is a biological, adopted or foster child, a stepchild or a legal ward, and is (1) under 18 years of age; or (2) 18 years of age or older and incapable of self-care because of mental or physical disability.
 - ❖ Spouse as defined includes common law marriages if recognized by the state. Unmarried domestic partners or "significant others" are not intended by the FMLA to qualify for family leave care for their partner.